

DECISION AND FINDING OF NO SIGNIFICANT IMPACT

FOR THE ENVIRONMENTAL ASSESSMENT:

“REDUCING BIRD DAMAGE IN THE STATE OF IOWA”

I. INTRODUCTION and BACKGROUND

The U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Wildlife Services¹ (WS) program receives and responds to requests for assistance from individuals, organizations and agencies experiencing damage and other problems related to wildlife. Wildlife damage management² is the alleviation of damage or other problems caused by or related to the presence of wildlife, and is recognized as an integral part of wildlife management (The Wildlife Society 1992). In December 2007, WS released an Environmental Assessment³ (EA) entitled “*Reducing Bird Damage in the State of Iowa*” to facilitate planning, interagency coordination, streamline program management, and to clearly communicate to the public the analysis of WS’ proposed adaptive integrated bird damage management (BDM) program in Iowa. WS uses an Integrated Wildlife Damage Management (IWDMM) approach, commonly known as Integrated Pest Management (WS Directive 2.105) in which a combination of methods may be used or recommended to reduce damage. The imminent threat of damage or loss of resources is often deemed sufficient for wildlife damage management actions to be initiated (U.S. District Court of Utah 1993).

The EA documented the need for adaptive integrated BDM in Iowa and assessed potential impacts of various alternatives to reduce risks to human health and safety and respond to other damage associated with bird activities. WS also cooperated and consulted with the U.S. Fish and Wildlife Service (USFWS), Iowa Department of Natural Resources (IDNR), Iowa Department of Agriculture and Land Stewardship (IDALS), Iowa Department of Public Health (IDPH), Iowa Department of Transportation Office of Aviation (IDOT) and Federal Aviation Administration (FAA) to help determine any impacts to State wildlife populations and resources, and to ensure that the proposed action is in compliance with relevant laws, regulations, policies, orders and procedures, including: 1) the Endangered Species Act (ESA) of 1973, the Migratory Bird Treaty Act (MBTA) (16 U.S.C. §§ 703-712, as amended), the Migratory Bird Reform Act of 2004, and the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. Sec. 712), 2) Executive Orders (EO) 13186⁴, and 3) MOUs between USFWS, FAA, and WS. This Decision and Finding of No Significant Impact (FONSI) are based on the analysis in the EA. The EA and supporting documentation⁵ are available for review at the USDA-APHIS-WS State Office, 1714 Commerce Court, Suite C, Columbia, MO 65202.

¹ WS is a cooperatively-funded, service-oriented program that only responds to requests from public and private entities to protect resources after an Agreement for Control or other comparable document is signed by the property owner/administrator (WS Directives 3.101 and 3.110). WS would assist the USFWS, IDNR, IDALS, IDOT, IDPH or FAA if requested to resolve a human-wildlife conflict if requested and a need is established.

² WS wildlife damage management is not based on punishing offending animals but as one means of reducing damage and is used as part of the WS Decision Model (Slate et al. 1992, USDA 1997, WS Directive 2.201).

³ Ordinarily individual WS damage management actions are categorically excluded and do not require an EA (7 CFR 372.5(c), 60 Fed. Reg. 6000-6003, 1995). However, to facilitate good planning and communication and to disclose the analysis of impacts, an EA was prepared.

⁴ Executive Order 13186 directs federal agencies to protect migratory birds and strengthen migratory bird conservation by identifying and implementing strategies that promote conservation and minimize the take of migratory birds through enhanced collaboration between WS and the USFWS, in coordination with state, tribal, and local governments. A National-level MOU between the USFWS and WS is being developed to facilitate the implementation of Executive Order 13186.

⁵ The EA incorporates by reference information in the WS programmatic Environmental Impact Statement (EIS) (USDA 1997). Copies of the EIS are available from the USDA/APHIS/WS, Operational Support Staff, 4700 River Road, Unit 87, Riverdale, MD 20737-1234.

The determination for action is the need to reduce risks to public health and safety and damage to agriculture, natural resources, and property from: American crows (*Corvus brachyrhynchos*), Red-winged blackbirds (*Agelaius phoeniceus*), Brown-headed cowbirds (*Molothrus ater*), Common grackles (*Quiscalus quiscula*), Barn swallow (*Hirundo rustica*) Red-tailed hawk (*Buteo jamaicensis*), Bald eagle (*Haliaeetus leucocephalus*), American kestrel (*Falco sparverius*), Great horned owls (*Bubo virginianus*), Great blue herons (*Ardea herodias*), Ring-billed gulls (*Larus delawarensis*), Killdeer (*Charadrius vociferus*), Mourning dove (*Zenaida macroura*), Horned lark (*Eremophila alpestris*), Eastern meadowlark (*Sturnella magna*), Turkey vulture (*Cathartes aura*), Canada goose (*Branta canadensis*), Mallard (domestic/wild) (*Anas platyrhynchos*), Ring-necked pheasant (*Phasianus colchicus*), and other feral, domestic and exotic birds in Iowa. Some of the types of bird damage that resource owners/managers seek to alleviate are: 1) hazards to aviation at airports (i.e., aircraft/bird strikes), 2) human health and safety threats (i.e., aircraft/bird strikes, disease risk), 3) property damage, 4) crop damage, 5) disease transmission threats to livestock, and 6) threats to threatened or endangered (T/E) species and/or their habitats. Details on the conflicts and benefits associated with birds in Iowa are provided in the EA. For emergency situations involving the protection of human health and safety (i.e., disease risks, bird/aircraft strikes), WS may take action on a case-by-case basis⁶.

II. AGENCY AUTHORITIES

Under various acts of Congress, EOs, and the Code of Federal Regulations (CFR)⁷, WS, as requested, is authorized and directed to carry out damage management programs necessary to protect the nation's agricultural and other resources. The USFWS is the primary Federal agency responsible for conserving, protecting, and enhancing the nation's fish and wildlife resources and their habitats.

- Under the Act of March 2, 1931, Public Law No. 100-202, Public Law 106-387, October 28, 2000. Stat. 1549 (Sec 767) and the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001 the Secretary of Agriculture may carry out damage management programs alone, or may enter into cooperative agreements with States, local jurisdictions, individuals and public and private agencies whereby they may fund and assist in carrying out such programs. The Secretary has delegated this authority to APHIS; within APHIS the authority resides with the WS program.
- The Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-711; 40 Stat. 755), as amended, provides the USFWS regulatory authority to protect species of birds that migrate outside the United States. The law prohibits any "take" of these species by private entities, except as permitted by the USFWS; therefore the USFWS issues permits to private entities for reducing bird damage (50 CFR 21.41).
- EO 13186 directs federal agencies to protect migratory birds and strengthen migratory bird conservation by identifying and implementing strategies that promote conservation and minimize the take of migratory birds through enhanced collaboration between WS and the USFWS, in coordination with state, tribal, and local governments.

The authority for the IDNR to manage Iowa's wildlife is established in Iowa Code (§455A.2) which, in part states, the "department of natural resources is created, which has the primary responsibility for state parks and forests, protecting the environment, and managing energy, fish, wildlife, and land and water resources in this state." The mission of the Fish and Wildlife Division of the IDNR is to ensure adequate protection, scientific management, and appropriate use of Iowa's fish and wildlife natural resources, while providing a wide range of outdoor recreational opportunities for Iowans.

⁶ This protocol is established via the USFWS Migratory Bird DP (permit # MB022856-1) issued to Iowa WS.

⁷ A more complete list of the more pertinent Acts and EOs is listed in the EA.

The IDALS is charged, with the suppression and prevention of infectious and contagious diseases among animals within Iowa (Iowa Code Chapter 163). The IDALS is also charged with the regulation of animals in the pet industry including the transportation of animals, the sale of the animals, and only permitting the sale of animals which appear to be free from infectious or communicable diseases (Iowa Code Chapter 162).

The IDPH is the State agency authorized to: 1) prevent epidemics and the spread of disease, 2) protect against environmental hazards, 3) prevent injuries, 4) promote and encourage healthy behaviors and mental health, 5) prepare for and respond to public health emergencies and assist communities in recovery from emergencies, and 6) assure the quality and accessibility of health services to Iowan. Activities, products, and services of the IDPH include public health planning and communications, intervention and treatment services, prevention services, assessment, surveillance, and epidemiology, policy development, systems development, and medical services (Iowa Code Chapters 135, 136A, 136B, 136C, 139A, 141A, 144, 147A, and 272C; Iowa Code §164.512, §164.501).

The IDOT is authorized by Iowa Code Chapter 329.5 Prevention of Airport Hazards, any municipality owning or controlling an airport may maintain actions in equity to restrain and abate as nuisances the creation or establishment of airport hazards appertaining to said airports, in violation of any regulations adopted or established pursuant without the territorial limits of said municipality.

The FAA is the Federal agency responsible for developing and enforcing air transportation safety regulations and is authorized to reduce wildlife hazards at commercial and non-commercial airports⁸. Many of these regulations are codified in the Federal Aviation Regulations (FAR). The FAA is responsible for setting and enforcing the FARs and policies to enhance public safety. At non-commercial airports, the FAA also expects that the airport be aware of wildlife hazards in and around their airport and take corrective action if warranted; the FAA uses Advisory Circular 150/5200-33 to guide their decision making process.

III. AFFECTED ENVIRONMENTS

Airports: Collisions between aircraft and wildlife are a concern throughout the world because they threaten passenger safety (Thorpe 1996), result in lost revenue and costly repairs to aircraft (Linnel et al. 1996), and can erode public confidence in airport transportation (Conover et al. 1995). Birds as a group represent the greatest hazard to aircraft, and therefore are considered a serious threat to human safety when found on or near airports (FAA National Wildlife Strike Database, wildlife.pr.erau.edu/public/index1.html).

Urban and Suburban Areas: Public and private properties in urban/suburban areas may also be affected when birds cause damage to landscaping, natural resources, and property or affect human health and safety.

Agricultural and Rural Areas: Other areas of proposed action include livestock facilities, or nurseries, and rural areas where birds are causing or potentially cause disease transmission and damage to agriculture crops, livestock and feed, aquaculture, property, and natural resources.

IV. ISSUES ANALYZED IN THE EA

The following issues were identified as important to the scope of the analysis (40 CFR 1508.25) and each of the alternatives was evaluated relative to its impacts on these issues.

⁸ The FAA is empowered to issue airport operation certificates to airports serving air carriers, and to establish minimum safety standards for the operation of airports. Some of these regulations and policies directly involve the management of wildlife and wildlife hazards on and/or near airports (FAR 139.337).

- Cumulative Effects of WS Bird Damage Management on Target Species Populations
- Effects of WS Bird Damage Management on Non-target Species Populations, Including T/E Species
- Risks Posed by WS Bird Damage Management Methods to the Public and Domestic Animals
- Efficacy of WS Bird Damage Management Methods

An additional ten issues were considered but were not analyzed in detail in the EA:

- WS' Impact on Biodiversity
- Humaneness of WS Bird Damage Management Methods
- Effects of WS Bird Damage Management Methods on Aesthetic Values
- Bird Damage is a Cost of Doing Business – a "Threshold of Loss" Should Be Established Before Allowing any Lethal Bird Damage Management
- Bird Damage Management Should Not Occur at Taxpayers Expense, but Should Be Fee Based
- Impacts of West Nile Virus (WNV) on Bird Populations
- Lethal Bird Damage Management is Futile because 50-65% of Many Species' Populations Die Each Year
- Appropriateness of Preparing an EA (Instead of an EIS) For Such a Large Area
- Cost Effectiveness of Bird Damage Management
- Bird Damage Management Should Be Conducted by Private Nuisance Wildlife Control Agents

V. ALTERNATIVES ANALYZED IN DETAIL

The following alternatives were developed to analyze and respond to the issues analyzed in detail. An analysis of the effects of each Alternative on the issues is discussed in the EA. All Iowa WS management actions comply with appropriate federal, state, and local laws, and Appendix C of the EA provides a description of the methods that could be used or recommended by WS.

Alternative 1 - Continue the Current WS Adaptive Integrated Bird Damage Management

Program (No Action/Proposed Action). The No Action alternative is a procedural NEPA requirement (40 CFR 1502), is a viable and reasonable alternative that could be selected, and serves as a baseline for comparison with the other alternatives. The No Action alternative, as defined here, is consistent with the CEQ's (1981) definition.

The current and proposed program is an adaptive integrated Iowa WS bird damage management program for the protection of public health and safety, agricultural and natural resources, and property. It is anticipated, based on historical need that the majority of Iowa WS' bird damage management will be at airports where bird damage has occurred or where potential hazards to the traveling public and damage to aircraft and property could occur. Iowa WS also conducts activities to reduce: 1) disease transmission risks to livestock and wildlife, and minimize livestock feed consumption/contamination by birds, 2) damage at aquaculture facilities caused by piscivorous birds⁹, and 3) property damage.

A major goal of the program is to minimize bird-related losses. To meet this goal, WS will continue to respond to requests for assistance with, at a minimum, technical assistance, or where appropriate when permitted by the USFWS and IDNR, and when cooperative funding is available, operational damage management whereby WS personnel would conduct bird damage management actions after applying the WS Decision Model (Slate et al. 1992). City managers, airport managers, agricultural producers, property owners and others requesting assistance would be provided information regarding the use of non-lethal and lethal techniques, as appropriate. Non-lethal methods include, but are not limited to: habitat/behavior modification, decoy and other live traps, exclusionary devices, nest destruction, hazing/frightening devices, chemical repellents, and alpha-chloralose (AC). Lethal methods considered

⁹ Currently, managers/owners of aquaculture facilities in Iowa deal with their own bird depredation problems through DPs issued by USFWS after WS evaluates each case and recommends site-specific take figures.

by WS include: shooting, egg addling/destruction, and American Veterinary Medical Association-approved euthanasia techniques, such as CO₂. WS may recommend hunting or DPs to resource owners when these strategies are deemed appropriate for specific bird depredation problems.

Alternative 2 - Technical Assistance Only Program. This alternative would not allow for WS operational bird damage management in Iowa. WS could only provide technical assistance and make recommendations when requested. Producers, property owners, agency personnel, or others could conduct bird damage management using traps, shooting, Avitrol¹⁰, or any non-lethal method that is legal¹¹.

This "*technical assistance only*" alternative places the immediate burden of operational damage management on state agencies, individuals and requesters. Individuals experiencing bird damage would, independently or with WS recommendations, carry out and fund damage management activities.

Alternative 2 would leave operational bird damage management to state or other federal agencies and individuals. Some agencies or individuals may choose not to take action to resolve bird damage. Other situations may warrant the use of legally available management methods because of public demands, mandates, or individual preference. Individual producers could implement bird damage management as part of the cost of doing business, or a state or other federal agency could assume a more active role in providing operational damage management assistance. Methods and devices could be applied by people with little or no training and experience, and with no professional oversight or monitoring for effectiveness. This in turn could require more effort and cost to achieve the same level of problem resolution, and could cause harm to the environment, including a higher take of non-target animals, and illegal use of pesticides could be greater than present.

Alternative 3 - No WS Bird Damage Management Program

This alternative terminates the WS program for bird damage management (operational and technical assistance) on all land classes in Iowa. However, other federal, state and county agencies and private individuals could conduct bird damage management, but requesters of WS services would not have WS input. WS will not be available to provide technical assistance or make recommendations to airport and landfill managers, property owners, agricultural producers or others requesting assistance. In some cases, damage management methods applied by non-WS personnel could be used contrary to their intended or legal use; Avitrol could be used by any state-certified restricted-use pesticide applicator. A "*no control*" alternative was also evaluated in USDA (1997).

V. MONITORING

The Iowa WS program will monitor its actions relative to each issue analyzed in detail in the EA. This evaluation will include annual reporting to the USFWS, IDNR, IDALS, IDPH, IDOT and FAA, as appropriate, the WS take of all species to help ensure no adverse impact on the viability, including T&E species and any incident of public safety. USFWS, IDNR and IDPH expertise will be used to determine adverse impacts.

VI. PUBLIC INVOLVEMENT

As part of this process, and as required by CEQ and APHIS-NEPA implementing regulations, issues related to the proposed action were initially developed by WS and reviewed and refined by the cooperating agencies. As part of WS' environmental analysis process, and as required by CEQ (1981) and APHIS-NEPA

¹⁰ Avitrol could only be used by state certified pesticide applicators in Iowa.

¹¹ Currently, AC is available only for use by WS personnel; therefore, use of this chemical by private individuals would be illegal.

implementing regulations, the EA was made available to the public through "Notices of Availability" (NOA) published in local media and through direct mailings to parties that have specifically requested to be notified. The NOA of the EA for public review and comment was published in the Des Moines Register, Des Moines, Iowa and the EA was posted on the APHIS website at http://www.aphis.usda.gov/regulations/ws/ws_nepa_environmental_documents.shtml. Following the 30 day public review and comment period, WS did not receive any comment letters on the EA.

VII. DECISION and RATIONALE

I have carefully reviewed the EA and the input resulting from the EA review process. I believe the issues identified in the EA are best addressed by selecting Alternative 1, "*Continue the Current WS Adaptive Integrated Bird Damage Management Program (Proposed Action/No Action)*" and applying the associated standard operating procedures and mitigation measures discussed in Chapter 3 of the EA. Alternative 1 provides: 1) the best range of practical and effective damage management methods, 2) has low impacts on target and non-target species, 3) provides safeguards for public safety, 4) allows WS to meet its obligations to the IDNR, other cooperating agencies and counties and residents of Iowa, 5) addresses the issues, and 6) allows for WS' congressionally directed role to protect the Nation's agricultural and other resources.

Alternative 1 also provides a mix of technical and operational assistance, and non-lethal and lethal methods. While Alternative 1 does not require non-lethal methods to be used in every situation, WS will continue to consider the use of non-lethal methods and provide information, and encourage the use of practical and effective non-lethal methods, when appropriate (WS Directive 2.101¹²). As a part of this Decision, the Iowa WS program will provide information to requesters on biological and non-lethal management techniques that could reduce damage. I have also adopted the EA as final because no comments from the public were received to change the analysis.

FINDING OF NO SIGNIFICANT IMPACT

The EA indicates that there will not be significant impacts, individually or cumulatively, on the quality of the human environment because of the proposed action, and that these actions do not constitute a major federal action. I agree with this conclusion and therefore determine that an EIS will not be necessary or prepared. This determination is based on the following factors:

1. Bird damage management, as conducted in Iowa is not regional or national in scope.
2. The proposed action will not significantly affect public health and safety.
3. The effects on the quality of the human environment are not highly controversial. Although there is opposition to government-sponsored damage management, this action in Iowa is not controversial in relation to size, nature or effects.
4. Standard operating procedures adopted as part of the proposed action lessen risks to the public, prevent adverse effects on the human environment and reduce uncertainty and risks.
5. The proposed action does not establish precedence for future actions with significant effects. This action would not set precedent for additional WS damage management that may be implemented or planned in Iowa.

¹² WS Policy Manual provides guidance for WS personnel to conduct wildlife damage management through Program Directives. WS Directives referenced in this Decision document can be found at <http://www.aphis.usda.gov/ws/wsdirectives.html>.

6. The number of animals taken annually is very small in comparison to total populations. Adverse effects on wildlife or wildlife habitats are minimal.
7. Bird damage management would not affect park lands, prime farmlands, wetlands, wild and scenic rivers, or ecological critical areas. The proposed action also does not affect districts, sites, highways, structures or objects listed in or eligible for listing in the National Register of Historic Places, nor would it cause a loss or destruction of significant scientific, cultural, or historical resources.
8. An evaluation of the proposed action and its effects on State and federally listed T&E species determined that no significant adverse effects would be created for these species. The proposed action complies fully with the Endangered Species Act of 1973, as amended. Consultations with the USFWS and the IDNR regarding potential risks to T&E species have been conducted and these agencies' input was used to develop standard operating procedures for the proposed action.
9. This action would be in compliance with federal, State and local laws or requirements for damage management and environmental protection.
10. No significant cumulative effects were identified by this assessment or other actions implemented or planned within the analysis area.

For additional information regarding this decision, please contact R. Edwin Hartin, State Director, APHIS-WS, 1714 Commerce Court, Suite C, Columbia, MO 65202 or by phone @ 573-449-3033.



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2/7/08

Date

LITERATURE CITED IN THE DECISION

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